

BILL ANALYSIS

C.S.H.B. 3562
By: Eissler
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

H.B. 3562 is an act relating to the creation of the Southwest Montgomery County Improvement District; providing authority to impose taxes and issue bonds. The Improvement District will operate to develop, encourage and maintain employment, commerce, economic development, enhance the quality of life and promote the public welfare in the District.

Montgomery County is the 28th fastest growing county in the United States, and the fifth fastest growing county in Texas. Southwest Montgomery County, including the Magnolia, Texas area, is the fastest growing region in Montgomery County. It is home to Magnolia Independent School District, which, with a growth rate of 10 to 12 percent per year, is the second fastest growing school district of its size in the State of Texas. The district has doubled in size in the last eight years, and expects to double again in the next five years.

This tremendous growth has put a strain on the resources of the School District, the City of Magnolia, the City of Stagecoach, and Montgomery County’s Precinct 2. The greatest challenges lie in mobility and infrastructure. The affected cities, the county, and the state are unable to meet the needs and expand essential services demanded by this dynamic growth.

Oddly, although it is the fastest growing part of Montgomery County, it is the only area without an improvement district or a logical strategy for orderly growth and development.

The citizens of this area, represented by The Magnolia Area Chamber of Commerce, the Magnolia Parkway Chamber of Commerce, Magnolia ISD, Montgomery County Commissioner’s Court, the City of Magnolia, the East 1488 Association, business owners, and others, have all come together to participate in the cooperative development of the area, with special emphasis on mobility, economic growth, education, and quality of life.

H.B. 3562 is the result of this direct community-wide involvement. Creation of the Southwest Montgomery County Improvement District will provide the funding necessary to help meet this area’s needs.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. CREATION OF DISTRICT. (a) The Southwest Montgomery County Improvement District is created as a special district in Montgomery County under Sec. 59, Article XVI, Texas Constitution.

(b) The board may change the name of the district by resolution.

SECTION 2. DEFINITIONS.

SECTION 3. DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sec. 52, Art. III, and Sec. 59, Article XVI, Texas Constitution and other public purposes

stated in this Act.

(b) The creation of the district is necessary to improve the economic and social well being of the southwest portion of Montgomery County.

(c) The district is created to supplement and not supplant services currently provided in the area in the district.

SECTION 4. BOUNDARIES. Sets forth the geographical boundaries of the district.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district forma closure and provides that if there is a mistake made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the district's organization, existence, or validity, its rights to issue any type of bond for the purposes for which the district is created, or to pay the principle of and interest on a bond, its right to impose or collect an assessment or a tax, or its legality or operation.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) provides that all of the land and other property included in the district will be benefitted by the improvements and services to be provided by the district.

(c) Sets forth the necessity of the district.

(d) Recognizes the need for the creation of public transportation and pedestrian facilities to address the current and future traffic congestion.

(e) Sets forth the specific tasks of the district.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though many private interests will be benefitted by the district, as will the general public.

SECTION 7. APPLICATION OF OTHER LAW. (a) Provides that Chapter 375, Local Government Code, applies to the district and Chapter 311, Government Code (Code Construction Act), applies to this act.

SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally construed in conformity with the findings and purposes stated in this Act.

SECTION 9. BOARD OF DIRECTORS. Sets forth general provisions and qualifications for the board of directors of the district.

SECTION 10. VACANCY (a) Sets forth provisions for handling vacated appointed and elected positions.

(b) If there are six or more vacancies occurring simultaneously, the Montgomery County commissioners Court shall make appointments to fi the vacancies.

(c) Sec 375.066, Local Government Code, does not apply to the district.

SECTION 11. ELECTION DATE FOR DIRECTORS. Provides that the election of a director is held on the uniform election date in September of the year in which an elected director's term expires.

SECTION 12. BOND NOT REQUIRED. Sets forth that a director is not required to execute a bond as required by Sec. 375.067, Local Government Code.

SECTION 13. REMOVAL OF DIRECTOR. Sets forth provisions wherein a director may be removed.

SECTION 14. INITIAL DIRECTORS. (a) Sets forth provisions in which initial appointments will be made.

(b) Describes the length of terms to be served by the initial directors.

(c) This section expires January 1, 2003.

SECTION 15. CONFIRMATION ELECTION. Sets forth provisions for a public election to confirm the establishment of the district.

SECTION 16. BORROWING MONEY BEFORE CONFIRMATION ELECTION. Sets forth provisions under which the district may borrow money prior to the public confirmation election.

SECTION 17. IMPACT AREAS. Defines "Impact Area" and provides for applying proceeds from taxes to the district or impact area.

SECTION 18. IMPROVEMENT PROJECTS. (a) Sets forth provisions in which the district may authorize projects.

(b) Further describes projects that may be authorized.

(c) Sets forth authority of the board in connection with the project.

(d) Provides that the board may fund separately, or jointly, improvement projects

(e) Outlines that the district may not exercise eminent domain or otherwise use property located in the territory of a planned community without the written consent of the owner of the property or the entity that dedicated the property to public use.

SECTION 19. PAYMENT OF EXPENSES. Sets forth provisions in which the board may secure payment of costs and expenses of the district.

SECTION 20. USE OF OPEN SPACES. Sets forth provisions by which the board may regulate the use of open spaces and provides choice of law instruction.

SECTION 21. PERMIT FOR PUBLIC GATHERINGS; FEE. This provision clarifies when a permit may be needed and allows the board to charge a fee for the permit and associated services.

SECTION 22. PUBLIC SECURITY. Sets forth provisions for hiring off duty peace officers to provide safety and security services.

SECTION 23. ECONOMIC DEVELOPMENT POWERS. (a) provides that the district has the same economic development powers that Chapter 380, Local Government Code, and Subchapter A Chapter 1509, Government Code, provide a municipality with a population of more than 100K.

(b) Establishes that the district has the powers and duties of a conservation and reclamation district created under Sec. 59, Article XVI, Texas Constitution, under the Development Corporation Act of 1979.

SECTION 24. REQUIREMENTS FOR USE OF FACILITIES. Sets forth provisions for the limited use of the area or facilities of the district.

SECTION 25. CHANGE IN DISTRICT TERRITORY. (a) provides that the board may add or exclude territory in the manner provided by Subchapter J, Chapter 49, and Section 54.016, Water Code, with provided exceptions.

(b) District territory that is annexed by a municipality is no longer a part of the district as of the date of imposition of sales and use tax by the municipality.

(c) District territory that becomes a part of a planned community is no longer a part of the district effective on the date the planned community imposes an ad valorem assessment in the territory.

(d) Within 10 days after the date of the change in the territory of the district, the board shall send to the comptroller, by certified or registered mail, certified copies of all resolutions, orders, or ordinances pertaining to the change.

SECTION 26. LIMITED SALES AND USE TAX. Sets forth provisions in which the district may adopt, reduce, or repeal, the limited sales and use tax, as well as the application, collection, and administration of the sales and use tax.

SECTION 27. UTILITIES. Sets forth provisions regarding imposing impact fees or assessments on the

property, including equipment of an electric utility, a gas utility, or a telecommunications provider.

SECTION 28. BONDS. Sets forth provisions for the district to issue bonds.

SECTION 29. INTERLOCAL AGREEMENTS. Sets forth provisions by which the district and a municipality may enter into an interlocal agreement.

SECTION 30. DISSOLUTION. Sets forth provisions for the dissolution of the district under Subchapter M, Chapter 375, Local Government Code, except that Section 375.263 does not apply to the district.

SECTION 31. ADDITIONAL LEGISLATIVE FINDINGS. Sets forth legislative findings regarding the fulfillment of procedural requirements with respect to the notice, introduction, and passage of this Act.

SECTION 32. EFFECTIVE DATE. Provides that the effective date will be immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. Otherwise, this Act takes effect on September 1, 2003.

EFFECTIVE DATE

This Act will go into effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. Otherwise, this Act takes effect on September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute provides that planned communities are not under the authority of the district, and it also provides that utilities will not be subject to taxation by the district.